

217887



IOWA
NATURAL HERITAGE
FOUNDATION

"for those who follow"

Insurance Exchange Bldg.
Suite 444
505 Fifth Avenue
Des Moines, IA 50309-2321

Phone: 515-288-1846
Fax: 515-288-0137
e-mail: info@inhf.org
www.inhf.org



October 16, 2006

Vernon A. Williams, Secretary
Surface Transportation Board
1925 "K" Street, NW
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings
01188
Part of
Public Record

BEFORE THE SURFACE TRANSPORTATION BOARD

RE: Union Pacific Railroad Abandonment, DALLAS County, Iowa;
Docket # AB-33 (Sub-No. 213X) between milepost 296.8 near Waukee to
milepost 275.9 (equation M.P 275.9=361.8) near Perry, and from milepost
361.8 to milepost 369.0 near Dawson, Dallas County, Iowa.

Motion to Extend the Time Period for Negotiation of an Interim Trail Use/Railbanking Agreement

On behalf of the Dallas County Conservation Board (a public agency), the Iowa Natural Heritage Foundation hereby moves the Surface Transportation Board (STB or Board) to extend the time period for negotiation of a mutually acceptable interim trail use/railbanking agreement in this proceeding up and including **April 22, 2007**.

The Iowa Natural Heritage Foundation and the Dallas County Conservation Board have been negotiating with the Union Pacific Railroad (UPRR), but the parties need additional time to complete the appraisals and finalize negotiations.

To successfully preserve this corridor for interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C. 1247 (d), it is necessary for the negotiation period under the NITU to be extended up to and including **April 22, 2007**. See Policy Statement on Rails to Trails


Conversions, Ex Parte No. 274 (Sub. No. 13b) (ICC served Feb. 5, 1990) (extensions of time promote the establishment of trails and railbanking consistent with the National Trails System Act).

Since the issuance of the NITU, UPRR at all points has maintained intent to transfer the line intact for interim trail use. The railroad has not sold, or offered for sale, any parcels of land that would interfere with interim trail use and railbanking of the portion of the corridor that is covered by the NITU. The line remains intact and throughout the period, the railroad has been negotiating with INHF for the transfer or sale of the corridor intact. Accordingly, the Board retains jurisdiction to extend the NITU to continue bona fide and active negotiations for interim trail use of the line.

In similar instances, this Board has reopened proceedings to permit the issuance of orders implementing section 8(d) for rail lines. The STB's authority to extend a NITU was upheld in Birt v. STB, 90 F.3d 580 (D.C. Cir. 1996). Here the parties merely seek an extension in the period for negotiation provided in a previously issued NITU. Such an extension will promote and further the purposes of the Trails Act.

For the reasons stated the Iowa Natural Heritage Foundation Dallas County Conservation Board request that an extension of the NITU negotiation period be granted through **April 22, 2007**.

Respectfully Submitted,



Mark C. Ackelson, President

cc: Mike Wallace, Dallas County Conservation Board



IOWA
NATURAL HERITAGE
FOUNDATION
"for those who follow"


Insurance Exchange Bldg.
Suite 444
505 Fifth Avenue
Des Moines, IA 50309-2321

Phone: 515-288-1846
Fax: 515-288-0137
e-mail: info@inhf.org
www.inhf.org

CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2006 a true and accurate copy of the foregoing motion has been served to the following party via first-class mail, postage pre-paid and VIA FAX to 312-777-2065.

Mack H. Shumate, Jr.
Union Pacific Railroad
101 N. Wacker Dr. Rm 1920
Chicago, IL 60606-1718



Mark C. Ackelson, President

cc: Mike Wallace, DCCB via FAX: 515-465-3579